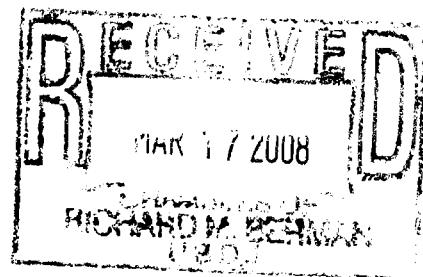


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## MEMO ENDORSED

March 14, 2008

The Honorable Judge Richard M. Berman  
United States District Court  
Southern District of New York  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: Richard Carbone, et al v. New Milford Hospital, et al  
Case No.: 07 CV 8741 (RMB)  
Our File No. 254-1019

**SO ORDERED:**

Date: 3/18/08

*Richard M. Berman*  
Richard M. Berman, U.S.D.J.

Dear Judge Berman:

The undersigned represents defendant, New Milford Hospital, in the above captioned matter. Pursuant to Section 2 A of your Individual Practices, the undersigned submits the following request for a pre-motion conference.

New Milford Hospital intends to move to transfer this matter to Federal District Court in Connecticut as the present venue is improper. The basis for the anticipated motion is outlined below.

New Milford Hospital is a not-for-profit corporation, organized and existing under the laws of the state of Connecticut where it is located. Plaintiff, a New York resident, entered the state of Connecticut for the purpose of undergoing surgery to be performed by a Connecticut physician. The surgery took place in Connecticut at New Milford Hospital during which it is alleged that plaintiff sustained an injury. At no time did any of the medical care that is at issue in this case occur outside the State of Connecticut.

Venue requirements exists for the benefit of defendants, Hoover Group, Inc. v. Custom Metalcraft, Inc., 84 F.3d 1408, 1410 (Fed. Cir. 1996); and are designed to protect the defendant and the witnesses against a plaintiff's choice of an unfair or inconvenient forum. Leroy v. Great W. United Corp., 443 U.S. 173, 183-184 (1979).

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Re: Richard Carbone, et al v.  
New Milford Hospital, et al  
March 14, 2008  
Page 2



Pursuant to 28 U.S.C. § 1404 (a), "For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought. 28 U.S.C. § 1391 (a) provides that "[a] civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant is subject to personal jurisdiction at the time the action is commenced, if there is no district in which the action may otherwise be brought."

An application of the various factors set forth in the above statutes require transfer of this matter to the United State District Court for the District of Connecticut. Based upon the above the undersigned respectfully requests a pre-motion conference.

Respectfully submitted,  
HEIDELL, PITTONI, MURPHY & BACH,  
LLP  
Attorneys for Defendant, New Milford  
Hospital

By: Bruce F. Gilpatrick (BG8841)

BFG/kw

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